

Withdrawal of Prior Submissions:

The amendment submitted on March 17, 2010 is officially withdrawn and it is requested that the amendment submitted on March 17, 2010 not be entered in the case.

Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 13-20. These sheets, which include Figs. 13-20, replace the original sheets including Figs. 13-20.

Attachment: 4 Replacement Sheets

REMARKS

Applicants would like to thank Examiner for his time and consideration in the telephone interview on March, 24 2010 in which entering of the present amendment in lieu of the previous amendment submitted on March 17, 2010 and submission of new terminal disclaimers were discussed in order to put the application in condition for allowance. This was discussed and agreed to in the phone conference and this written submission is to complete the agreement reached in the phone conference. In particular, the amendment submitted on March 17, 2010 should not be entered and treated as if it had never existed. This was submitted in error by the Applicants. The current amendment completely replaces the amendment submitted on March 17, 2010 and is to be substituted therefor.

In The Board of Patent Appeals and Interferences (BPAI) decision dated February 16, 2010, the Examiner's decision was affirmed. The BPAI affirmed the rejection of claims 1-3, 7, 10, 13, 16, 19, 22 and 25 on grounds of obviousness-type double patenting over claims 1-19 of co-pending U.S. Patent Application Serial No. 10/764,805 in view of U.S. Patent Application Publication No. 2002/0168587 (Sakaue) or U.S. Patent No. 6,449,239 (Uno) and affirmed the rejection of claims 1-3, 7, 10, 13, 16, 19, 22 and 25 on grounds of double patenting over claims 1-19 of co-pending U.S. Patent No. 7,359,310 in view of Sakaue or Uno. The BPAI reversed the rejection of claims 1-3, 7, 10, 13, 16, 19, 22 and 25 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0021160 (Shuy) in view of Sakaue and U.S. patent no. 4,682,321 (Takaoka).

According to the current amendment the drawings are amended herein to correct inadvertent inconsistencies and the terminal disclaimers have been signed by an original attorney of record David V. Carlson and resubmitted herewith. Figures 19 and 20 of the present amendment were inadvertently omitted from the present U.S. patent application filed on November 20, 2003. However, as discussed during the interview, these figures do not constitute new matter as they were included in the priority document, Japan 2002-339857, filed November 22, 2002. Also, Figures 19 and 20 of the present amendment find full support in the specification of the present application on page 15, lines 24-28, page 52, lines 25-28 and page 53

lines 1-15. For example, page 15, lines 24-28 state: "Figure 19 is a graph showing the relationship between the wavelength of a laser beam and the refractive index n of a dielectric layer measured in Working Example 2. Figure 20 is a graph showing the relationship between the wavelength of a laser beam and the extinction coefficient k of a dielectric layer in Working Example 2." Clearly, Figures 19 and 20 of the present amendment are the graphs as described in the specification. For example, the reference numerals that appear in the specification in the description of Figures 19 and 20 on pages 52 and 53 correlate to the same reference numerals "sample #2-3" and "sample #2-1" of the of Figures 19 and 20 of the present amendment (as they do not correlate to the previous Figures 19 and 20). Also, the description below from pages 52 and 53 of the specification describes Figures 19 and 20 of the present amendment and specifically describes the particular characteristics (e.g., relative comparisons of particular points along the curves of the graphs of Figures 19 and 20 of the present amendment) rather than those of previous Figures 19 and 20.

The result of measurement of the relationship between the wavelength of the laser beam and the refractive index n of the dielectric layer is shown in Figure 19 and the result of measurement of the relationship between the wavelength of the laser beam and the extinction coefficient k of the dielectric layer is shown in Figure 20.

As shown in Figure 19, it was found that the refractive index n of the sample #2-1 including the dielectric layer containing TiO₂ as a primary component but no nitrogen as an additive did not greatly change even if the wavelength of the laser beam became shorter, while the refractive index n of the sample #2-3 including the dielectric layer containing TiO₂ as a primary component and 2.9 atomic % of nitrogen as an additive increased as the wavelength of the laser beam became shorter and the refractive index n thereof was very large with respect to the laser beam in the blue wavelength band.

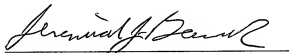
Further, as shown in Figure 20, it was found that both the extinction coefficient k of the sample #2-1 including the dielectric layer containing TiO₂ as a primary component but no nitrogen as an additive and the extinction coefficient k of the sample #2-3 including the dielectric layer containing TiO₂ as a primary component and 2.9 atomic % of nitrogen as an additive increased as the wavelength of the laser beam became shorter and that the extinction coefficient k of the sample #2-1 was larger than that of the sample #2-3 irrespective of the wavelength of the laser beam.

Thus, the Applicants submit that no new matter has been added and the present amendment and terminal disclaimers submitted herewith put the application in condition for allowance.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC

A handwritten signature in cursive script, appearing to read "Jeremiah J. Baunach", written over a horizontal line.

Jeremiah J. Baunach
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DVC/JJB:ks

Enclosure:

4 Sheets of Replacement Drawings (Figures. 13-20)

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